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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,883	10/29/2001	Phillip A. Danner	120751	1812
23465	7590	11/30/2005	EXAMINER	
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			JONES, PRENELL P	
		ART UNIT	PAPER NUMBER	
		2668		
DATE MAILED: 11/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/682,883	DANNER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Prenell P. Jones	2668	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 September 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

1. Regarding 112 rejection, Applicant argues that the specification and the claims comply with the 112 requirements. Examiner disagrees, with regards to the claims; Applicant is claiming that the claimed Ethernet switch includes a host of characteristics. But, Applicant fails to indicate the usage of the claimed invention.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant fails to describe in the specification how and why one of ordinary skilled in the art would reproduce an Ethernet switch with the configured features that Applicant is claiming in his invention, and Applicant further neglects to indicate in the specification what use would implementing claimed features in an Ethernet switch.

4. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as based on a **disclosure, which is not enabling.** A description of how to make, implement and utilize the claimed invention is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Applicant fails to provide the usage of the claimed invention, as well as, structure with regards to the claimed invention, which is needed in order for one of ordinary skilled in the art to build/reproduce Applicant's claimed invention. To be specific, how does one make and use an Ethernet switch that includes, a configured stackable switch, transmission of at least one Gigabyte per second, extended vibration of at least 2g, shock vibration of at least 4g, supporting VLAN, QoS, RMON, SNMP, spanning tree and operating at wire speed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant fails to indicate the usage of the claimed invention.

7. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Use of the invention.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
  
3. Claims 1, 3, 4, 7, 12, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Compaq in view of Arise Computer Incorporated and Woram.

Regarding claims 1, 3, 4, 12 and 14, Compaq discloses an (pages 1-2) Ethernet switch with a plurality of ports that supports high-end features, such as VLAN protocol, RMON and Spanning tree and (page 4) a storage environment whereby the humidity is 10% to 95% non-condensing and switch operating at one gigabit. Compaq is silent on the Ethernet switch operating at temperature of 0~60 degrees Celsius and utilizing an Ethernet switch in a non-office environment. In analogous art, Arise Computer Incorporated disclose in a data sheet specification of a DX-4000 with VGA (Ethernet device) that has a plurality of parallel and serial port, works at an operating temperature of 0~60 degrees Celsius, non-condensing humidity of 10%-95%, and Woram discloses utilizing robust Ethernet devices designed with environmental shielding (col. 2, line 57-67). Therefore, it would have been obvious to one of ordinary skill in

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the art to motivate to implement an operating temperature between 0~60 degrees Celsius as taught by the combined teachings of Arise Computer Incorporated Ethernet device and Woram's Ethernet platform with the teaching of Compaq's Ethernet switch to increase durability of a system and provide use in hostile environments (non-office).

Regarding claims 7 and 17, as mentioned above, Compaq discloses an (pages 1-2) Ethernet switch that supports high-end features, such as VLAN protocol, RMON and Spanning tree and (page 4) a storage environment whereby the humidity is 10% to 95% non-condensing and switch operating at one gigabit. Compaq further discloses on pages 2-4 that the Compaq SW5425 Ethernet switch accommodates VLAN, QoS, RMON, Spanning tree and SNMP communication.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Compaq in view of Arise Computer Incorporated and Woram applied to claims 6, 12 and 16 above, and further in view of Haddock et al.

Regarding claim 2, Compaq discloses an (pages 1-2) Ethernet switch with a plurality of ports that supports high-end features, such as VLAN protocol, RMON and Spanning tree and (page 4) a storage environment whereby the humidity is 10% to 95% non-condensing and switch operating at one gigabit. Compaq is silent on the Ethernet switch operating at temperature of 0~60 degrees Celsius, and Arise Computer Incorporated disclose in a data sheet specification of a DX-4000 with VGA (Ethernet device) that has a plurality of parallel and serial port, works at an operating temperature of 0~60 degrees Celsius, non-condensing humidity of 10%-95%, and Woram discloses utilizing robust Ethernet devices designed with environmental shielding (col. 2,

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line 57-67). Compaq, Arise Computer Incorporated and Woram are silent on stackable Ethernet switches. In analogous art, Haddock discloses (Abstract, Fig. 1, col. 1, line 44-67) in an interconnecting forwarding device system whereby the architecture includes a plurality of Ethernet devices/switches, which are known in the art to come in a stackable or chassis-based form. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement stackable Ethernet switches as taught by Haddock with the combined teachings of Compaq and Arise Computer Incorporated for the purpose of limiting space/area usage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones



November 26, 2005



CHIEH M. FAN  
SUPERVISORY PATENT EXAMINER